

E-Filed 12/16/11

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JEANNE MARIE SOJA,
Petitioner,

No. C 11-6288 RS (PR)

ORDER OF DISMISSAL

v.

WALTER MILLER, Warden,
Respondent.

INTRODUCTION

This is a federal habeas corpus action filed pursuant to 28 U.S.C. § 2254 by a *pro se* state prisoner. For the reasons stated herein, the action is DISMISSED.

DISCUSSION

In the instant petition, petitioner challenges a 2004 conviction she received in the Monterey County Superior Court. In 2009, petitioner filed a petition in this Court (No. 09-3348 RS) in which she challenged the same conviction. The 2009 petition was dismissed as untimely. The instant petition, then, is second or successive to the 2009 habeas petition.

In order to file a second or successive petition, the petitioner must obtain an order from the court of appeals authorizing the district court to consider the petition. *See* 28 U.S.C.

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1 § 2244(b)(3)(A). Because petitioner has not shown that she has received such authorization,
2 the instant petition must be dismissed as second or successive to the prior-filed 2009 petition.
3 Accordingly, the petition is DISMISSED WITH PREJUDICE.

4 A certificate of appealability will not issue. Reasonable jurists would not “find the
5 district court’s assessment of the constitutional claims debatable or wrong.” *Slack v.*
6 *McDaniel*, 529 U.S. 473, 484 (2000). Petitioner may seek a certificate of appealability from
7 the Court of Appeals.

8 Petitioner’s motion to proceed *in forma pauperis* (Docket No. 3) is GRANTED.
9 Petitioner’s motion for the appointment of counsel (Docket No. 2) is DENIED. The Clerk
10 shall enter judgment in favor of respondent, terminate Docket Nos. 2 & 3) and close the file.

11 **IT IS SO ORDERED.**

12 DATED: December 16, 2011


13 RICHARD SEEBORG
14 United States District Judge
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